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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,292	02/10/2004	Ray Bailey	42824-0005	1145

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EXAMINER

REESE, DAVID C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,292

Applicant(s)

BAILEY, RAY

Examiner

David C. Reese

Art Unit

3677

Period for Reply
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

[1] The current application and Claims 32-35 are a continuation from Patent 6,709,213, by the same inventive entity.

Double Patenting

[2] Claims 32-34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over respective claims 2, 14, and 15 of U.S. Patent No. 6,709,213. Although the conflicting claims are not identical, they are not patentably distinct from each other because beginning with Claim 32, stating **(with claim 2 terminology from patent 6,709,213 in parentheses following)**, "An adapter for hanger bolts comprising **(An adapter for hanger bolts comprising:)**

a hex head adapted for use in a receiving device **(a hex head adapted for use in a receiving device);**

a ball bearing positioned between said hex head and an end of a hanger bolt housing **(a ball bearing is moveably positioned between said socket head set screw and an end of said socket head set screw receptacle);** and

said hanger bolt housing having a threaded hanger bolt channel for accommodating a hanger bolt **(said hanger bolt housing a threaded hanger bolt**

Art Unit: 3677

channel for accommodating said hanger bolt), said threaded hanger bolt channel adjacent said ball bearing (said threaded bolt channel abutting an end of said socket head set screw receptacle).

Though what follows in the above parentheses does not read on exactly between both sets of claims; the following can be inferred: First, that a hex head and socket head set screw from application 10/775292 are from the same location (21 from Fig. 3 on both the application and patent diagrams); and the end of the hanger bolt housing structure and the end of the socket head set screw receptacle of patent 6,703,213 are from the same location (both concern themselves with the ball bearing, 70, from Fig. 4a, 4b from both the application and patent diagrams). Secondly, having the bolt channel adjacent to the ball bearing is the same as the bolt channel abutting an end of said socket head set screw receptacle since as stated above, a ball bearing is positioned near the end of the said socket head set screw receptacle (both concern themselves with the ball bearing, 70, from Fig. 4a, 4b from both the application and patent diagrams). This is also shown by the diagrams which are exactly the same between patent 6,703,213 and application 10/775292.

Claim 33, with respect to **Claim 14 of patent 6,709,213**, states, "The adapter for hanger bolts according to Claim 32 wherein said hanger bolt is removed by reverse-rotating said adapter (The adapter according to claim 13 wherein said hanger bolt is removed by reverse-rotating said adapter). Claim 14 of the patent reads right onto Claim 33 of the application.

Claim 34, with respect to **Claim 15 of patent 6,709, 213**, states, "The adapter for hanger bolts according to Claim 32 wherein said ball bearing is moveably positioned between said hex head and an end of a hanger bolt housing (wherein a ball bearing is moveably positioned between said socket head set screw and an end of said socket head set screw receptacle). Once again, note the relationship between said hex head and said socket head set screw, as well as the relationship between hanger bolt housing and said socket head set screw receptacle.

Claim Rejections - 35 USC § 103

[3] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[4] Claims 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helderman US-4,635,337 in view of Hope US-1,357,562.

Helderman teaches of a method for removable anchor apparatus.

However, Helderman fails to disclose expressly a device that includes a ball bearing between the setscrew and end of receptacle.

Hope teaches of a ball bearing screw that can be used in conjunction with a shaft.

At the time of invention, it would have been obvious to one of ordinary skill in the art to modify the driving member (30 from Fig. 1 of Helderma n) of the removable anchor apparatus as taught by Helderma n, to include a ball bearing at the end as taught by Hope, such as to accommodate varying lengths of the anchoring device as well as enabling the driving member to be threaded in either a left or right handed manner; in turn giving more options to the user.

Now as for Claim 32, Helderma n discloses a method for removable anchor apparatus, that comprises:

a hex head adapted for use in a receiving device (Helderma n in view of Hope, substituting the screw 5 with hex head 8, in Fig. 1 of Hope, for the driving member 30 in Fig. 1 of Helderma n);

a ball bearing positioned between said hex head and an end of a hanger bolt housing (Helderma n in view of Hope, substituting the screw 5 with ball bearing 16 in Fig. 1 of Hope, for the driving member 30 in Fig. 1 of Helderma n); and

said hanger bolt housing having a threaded hanger bolt channel for accommodating (24 in Fig. 1 of Helderma n) a hanger bolt (21 in Fig. 1 of Helderma n), said threaded hanger bolt channel adjacent said ball bearing (after the substitution of screw 5 in Fig. 1 of Hope, for the driving member 30 in Fig. 1 of Helderma n, the two will be adjacent, just as shown in within 24 in Fig. 2 of Helderma n).

As for Claim 33, Helderma n shows a method for removable anchor apparatus, wherein said hanger bolt (21 from Fig. 1 of Helderma n) is removed by reverse-rotating said adapter (as stated in line 19, part 6 of Helderma n, "in order to remove shank

member 21...nut means 23 is then rotated in a counter-clockwise direction...whereupon shank member 21 is rotatably extracted...").

As for Claim 34, Helderman in view of Hope, substituting the screw 5 with ball bearing 16 in Fig. 1 of Hope, for the driving member 30 in Fig. 1 of Helderman, wherein said ball bearing is moveably positioned (from line 15 of Hope, stating, "...ball...will revolve on the row of balls and turn with the shaft...) between said hex head (8 in Fig. 3 of Hope) and an end of a hanger bolt housing (24 in Fig. 1 of Helderman).

As for Claim 35, Helderman in view of Hope, substituting the screw 5 with ball bearing 16 in Fig. 1 of Hope, for the driving member 30 in Fig. 1 of Helderman provides a method for a removable anchor apparatus comprising:

Providing an adapter (24 in Fig. 1 of Helderman) for hanger bolts (21 in Fig. 1 of Helderman) having a hex head (8 in fig. 3 of Hope) adapted for use in a receiving device, wherein a ball bearing positioned between said hex head and an end of a hanger bolt housing and wherein said hanger bolt housing having a threaded hanger bolt channel (24 in Fig. 1 of Helderman) for accommodating a hanger bolt, said threaded hanger bolt channel adjacent said ball bearing (after the substitution of screw 5 in Fig. 1 of Hope, for the driving member 30 in Fig. 1 of Helderman, the two will be adjacent, just as shown in within 24 in Fig. 2 of Helderman);

inserting a hanger bolt in said adapter (21 into 24 as shown from Fig. 1 to Fig. 2 of Helderman);

positioning said adapter in said receiving device (Fig. 2 to Fig. 3 of Helderman);

driving said hanger bolt into said substrate (Fig. 2 to Fig. 3 of Helderman), and

reverse-rotating said adapter to remove said hanger bolt from said adapter
(Claim 5 of Helderman, stating, "...including the step of removing the shank member by rotating the shank member in a direction opposite to said first direction")).

Conclusion

[5] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows: Phillips, U.S. Patent 4,840,529; Rachanski et al., U.S. Patent 4,741,229; Gibbons, U.S. Patent 5,391,033; Curran, U.S. Patent 2,696,236; Ambrico et al., U.S. Patent 5,582,496; DeFusco, U.S. Patent 4,043,239; Schertz, U.S. Patent 3,163,079.


[6] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (703) 305-0590. The examiner can normally be reached on 7:30 am - 5:00 pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,
David Reese
Assistant Examiner
Art Unit 3677



ROBERT J. SANDY
PRIMARY EXAMINER